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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT RICHLAND

JOHN DOE 1; JOHN DOE 2; JANE
DOE 1; JANE DOE 2; JANE DOE 3;
and all persons similarly situated,

Plaintiffs,

v.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS;
STEPHEN SINCLAIR, Secretary of The
Department of Corrections, in his official
capacity,

Defendants,

and

BONNEVILLE INTERNATIONAL,
INC. a Utah Corporation, d.b.a KIRO
Radio 97.3 FM; THE MCCLATCHY
COMPANY, LLC, a California Limited
Liability Company, d.b.a. The Tacoma
News Tribune; and ANDREA KELLY,
an individual,

Interested Parties.

No. 4:21-cv-05059-TOR

EXPEDITED SECOND MOTION TO
EXTEND TEMPORARY
RESTRAINING ORDER OR, IN THE
ALTERNATIVE, MOTION FOR
EXPEDITED HEARING ON
MOTION FOR PRELIMINARY
INJUNCTION

Noting Date: May 6, 2021
Without Oral Argument

1 Come now Plaintiffs, by and through their counsel of record, and respectfully
2 move this Court for an order extending the April 8, 2021 Temporary Restraining
3 Order (“TRO”) issued in this matter until the Court rules on Plaintiffs’ Motion for
4 Preliminary Injunction (“PI Motion”) or, in the alternative, setting the PI Motion for
5 expedited hearing on May 6, 2021, the date on which the TRO expires at midnight.
6 The requested relief is necessary in order to prevent Defendants from releasing the
7 records at issue in the litigation and thus to prevent irreparable harm to Plaintiffs
8 during the briefing and consideration of their PI Motion, which is currently set for
9 hearing on May 12, 2021. This Court found in its April 8 ruling that interim relief
10 pending a decision on the PI Motion is necessary to prevent irreparable harm to
11 Plaintiffs here, TRO at 5-6, and nothing has changed.

12 Plaintiffs’ counsel has contacted the Assistant Attorney General representing
13 Defendants in this matter, who has stated that Defendants will be opposing further
14 extension of the TRO because they do not agree with the scope of the order.

15 A TRO may be extended upon a showing of good cause. F.R.C.P. 65(b)(2) (a
16 TRO “expires at the time after entry—not to exceed 14 days—that the court sets,
17 unless before that time the court, for good cause, extends it for a like period or the
18 adverse party consents to a longer extension”). Good cause for an extension exists
19 here because Defendants have indicated that they will release the requested records
20 absent a court order preventing such disclosure. *See* Frenchman Declaration in
21 Support of PI Motion ¶ 11 & Ex. B. The TRO issued by this Court to prevent
22 irreparable harm to Plaintiffs expires at midnight on May 6, 2021, but the hearing
23 on Plaintiffs’ PI Motion is not until May 12, 2021. If the TRO is not extended,

1 Defendants will release the records and the very harm that Plaintiffs' lawsuit seeks
2 to prevent will occur. As more fully explained in the PI Motion, once the records are
3 released, there will be no turning back—Plaintiffs' safety and lives will be placed in
4 great peril, and they will be left without any possible remedy. *See generally* PI
5 Motion and supporting declarations. This is the very definition of good cause.

6 In the alternative, Plaintiffs request that the PI Motion be set for expedited
7 hearing on May 6, 2021, the date on which the TRO currently expires. Plaintiffs'
8 alternative motion for an expedited hearing is proper under the local rules:

9 To seek an expedited hearing on a time sensitive matter, the moving
10 party must file a motion to expedite, which (1) demonstrates good
11 cause, (2) states the position of the opposing party, and (3) sets a date
of hearing that is not less than 7 days after the motion's filing.

12 Local Rule 7(i)(2)(C). As set forth above, good cause exists to expedite the hearing
13 on the PI Motion because it will prevent irreparable harm to Plaintiffs. Indeed, absent
14 an extension of the TRO, an expedited hearing on the PI Motion is the only way
15 Plaintiffs can obtain effective relief. Defendants will apparently oppose this motion,
16 not because they do not think that *any* extension of the TRO is agreeable, but only
17 because they need clarification on the scope of the TRO. And finally, the alternative
18 motion is timely because it seeks a hearing on May 6, 2021, which is seven days
19 after this motion was filed.

20 For the above reasons, Plaintiffs respectfully request that this Court extend
21 the TRO issued on April 22, 2021, in this matter to and including the date that it
22 rules on Plaintiffs' PI Motion or, in the alternative, set the PI Motion for expedited
23 hearing on May 6, 2021.

Respectfully submitted,

Dated this 29th day of April, 2021.

<p>MacDonald Hoague & Bayless</p> <p>By: <u>s/ Joe Shaeffer</u> Joe Shaeffer, WSBA #33273 joe@mhb.com Attorneys for Plaintiffs On behalf of The American Civil Liberties Union of Washington Foundation</p> <p>705 Second Avenue, Suite 1500 Seattle, WA 98104 Tel: 206.622.1604 Fax: 206.343.3961</p>	<p>Munger, Tolles & Olson LLP</p> <p>By: <u>s/ Katherine M. Forster</u> Katherine M. Forster, CA Bar #217609 Admitted <i>pro hac vice</i> Katherine.Forster@mto.com Attorneys for Plaintiffs</p> <p>350 South Grand Avenue, 50th Floor Los Angeles, CA 90071 Tel: 213.683.9538 Fax: 213.593.2838</p>
<p>American Civil Liberties Union of Washington Foundation</p> <p>By: <u>s/ Nancy Talner</u> Nancy Talner, WSBA #11196 TALNER@aclu-wa.org By: <u>s/ Lisa Nowlin</u> Lisa Nowlin, WSBA #51512 lnowlin@aclu-wa.org By: <u>s/ Antoinette M. Davis</u> Antoinette M. Davis, WSBA #29821 tdavis@aclu-wa.org</p> <p>Attorneys for Plaintiffs P.O. Box 2728 Seattle, WA 98111 Tel: 206.624.2184</p>	<p>Disability Rights Washington</p> <p>By: <u>s/ Ethan D. Frenchman</u> Ethan D. Frenchman, WSBA #54255 ethanf@dr-wa.org By: <u>s/ Danny Waxwing</u> Danny Waxwing, WSBA #54225 dannyw@dr-wa.org By: <u>s/ Heather McKimmie</u> Heather McKimmie, WSBA #36730 heatherm@dr-wa.org By: <u>s/ David Carlson</u> David Carlson, WSBA #35767 davidc@dr-wa.org</p> <p>Attorneys for Plaintiffs 315 5th Avenue S, Suite 850 Seattle, WA 98104 Tel: 206.324.1521</p>

DECLARATION OF SERVICE

I certify that on the date noted below I electronically filed the above-entitled document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following persons:

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DATED this 29th day of April, 2021, at Seattle, Washington.

s/ Marry Marze
Marry Marze, Legal Assistant